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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

AMBER HARRIS, a single individual,

Plaintiff,

vs.

GLACIER BANCORP INC., a
Montana Corporation d/b/a/
MOUNTAIN WEST BANK,

Defendant.

Case No.: 2:16-CV-00047-RMP

AMENDED COMPLAINT FOR
DAMAGES AND REQUEST FOR
JURY TRIAL

I. SUMMARY

Amber Harris was on family medical leave for a surgery to resolve her disability when she was terminated on a pretext by her employer.

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1 Amber Harris seeks damages for discrimination, failure to accommodate and
2 retaliation under the Americans With Disability Act (“A00DA”), Washington Law
3 Against Discrimination, Chapter 49.60 RCW (hereinafter “WLAD”), state and
4 federal Family Medical Leave Act based upon theories of interference,
5 discrimination and retaliation.
6

7 **II. PARTIES, VENUE, AND JURISDICTION**

8 2.1 Amber Harris is a resident of Pend Oreille County.
9

10 2.2 Amber Harris was an employee of Glacier Bancorp Inc. d/b/a Mountain
11 West Bank (hereinafter “Mountain West Bank”) until she was wrongfully
12 terminated on the last day of medical leave in September of 2014.

13 2.3 Amber Harris worked as a customer service representative when initially
14 hired by Mountain West Bank and eventually progressed to become a customer
15 service manager at the time of her termination.
16

17 2.4 Mountain West Bank, a division of Glacier Bancorp Inc., is a Montana
18 Corporation with 399 employees, which operated and conducted business at 330 N.
19 Washington, Newport, Washington 99156.
20

21 2.5 Amber Harris is bringing a claim under the ADA and WLAD.
22
23
24

1 2.6 This Court has subject matter jurisdiction pursuant to 28 U.S.C. §1331 and
2 supplemental jurisdiction over Plaintiff's Washington state law claims under 28
3 U.S.C. 1367(a).

4 2.7 Venue is proper under 28 U.S.C. §1391(b) & (c) in the Eastern District of
5 Washington.
6

7 **III. FACTS**

8 3.1 Amber Harris went to work for Mountain West Bank in 2010.

9 3.2 Amber Harris initially worked as a customer services representative for
10 Mountain West Bank in Newport, Washington.
11

12 3.3 Mountain West Bank employed Amber Harris at a location operating at 330
13 N. Washington, Newport, Washington.

14 3.4 Mountain West Bank has hundreds of employees within the required 75-
15 mile geographic area so as to make it governed by the Family Medical Leave Act
16 ("FMLA").
17

18 3.5 Mountain West Bank's parent company maintained multiple offices within
19 75 miles of Newport in Ione, Washington; Bonner's Ferry, Idaho; Post Falls,
20 Idaho; Sandpoint, Idaho; and other as detailed in the attached Exhibit 1.
21

1 3.6 Amber Harris, over a year prior to her termination, had notified her
2 employer of a disability, interstitial cystitis, which required frequent medical
3 treatment with her treating physician.
4

5 3.7 Amber Harris' condition also required her to take restroom breaks every 20-
6 30 minutes.

7 3.8 Amber Harris' condition was treated with surgery in September of 2014.

8 3.9 As of September, 2014, Amber Harris' condition was corrected. Since that
9 time she has not suffered from any disability.
10

11 3.10 In January 2014, Amber Harris requested an accommodation in the form of
12 FMLA to accommodate her disability.

13 3.11 Amber Harris asked Shawn Langenderfer for an HR Benefits Coordinator
14 for this accommodation in January of 2014.
15

16 3.12 Even prior to this February 2014 request, Mountain West Bank had
17 knowledge of Amber Harris' condition.

18 3.13 In December of 2013, Ms. Harris was marked down on her review based
19 upon her "attendance."
20

21 3.14 The review from 2013 states in pertinent part:

22 *Dona Miller*-Amber completes all work in a
23 timely and consistent manner. She arrives
24 prepared for work doing the best job
possible. Attendance is an area that needs

1 attention. Please do your best to schedule
2 appointments outside of work hours and
3 minimize unscheduled absences.

4 *Amber Harris*-I feel that, given the disease
5 that I have, I do a very good job at
6 scheduling my appointments at the most
7 convenient times that I can. We work 8 to 5
8 Monday through Friday, so it makes it
9 impossible to schedule doctors'
10 appointments that are not during business
11 hours. Doctors' offices are not usually open
12 on Saturdays, and specialists are never open
13 on Saturday. With the disease that I have I
14 have actually been told by my doctor that
15 the best option would be to apply for
16 disability and not work, and I have not done
17 that. I make every effort to not have
18 unscheduled absences, and to only schedule
19 necessary appointments. On most weeks I
20 work 40 hours, and sometimes more because
21 I stay late when branches are short staffed so
22 that I do not leave them in a bind.

16 3.15 Amber Harris received only a "2" out of 5 on this "attendance" section of
17 her review.

19 3.16 Amber Harris had received an employee handbook form her employer,
20 Mountain West Bank.

21 3.17 The handbook at section 5-1 explicitly states that the Newport Branch is
22 subject to the FMLA.

1 3.18 Under section 5-1 of the handbook FMLA leave was allowed for staff
2 member's own serious health condition.

3 3.19 Under the FMLA, a surgery such as Amber Harris had in September 2014
4 qualified as a serious health condition.

5
6 3.20 Amber Harris' surgery was initially scheduled in the spring of 2014. At her
7 employer's request she re-scheduled the surgery.

8 **The Leave**

9
10 3.21 Amber Harris began medical leave on September 6th. Her last day of work
11 prior to leave was September 5th.

12 3.22 Amber Harris had been approved for leave by her employer from September
13 6, 2014 to September 29, 2014.

14 3.23 One day before Amber Harris' scheduled return to work on September 28,
15 2014 Amber Harris was discharged.

16
17 3.24 Amber Harris prior to her termination had never been written-up.

18 3.25 With the exception of her employer's criticism based on her doctor visits she
19 had received excellent reviews and was excelling at her job receiving regular
20 raises, and having quickly progressed to Customer Service Manager.

21
22 3.26 Amber Harris was performing all aspects of her job in a satisfactory manner
23 and was utilizing FMLA leave to correct her medical condition.

Employer's False Excuse for Termination

3.27 Amber Harris had never been written-up, reprimanded, or disciplined in any way for obtaining the vault code with her Branch manager's knowledge or permission.

3.28 Amber Harris was alleged by her employer to have violated their policy on "dual control."

3.29 The term "dual control" was not, at the time of Amber Harris' termination, defined by her employer.

3.30 Amber Harris prior to taking leave had, with her branch manager's permission, obtained the vault code.

3.31 Amber Harris Had obtained the vault code many times before in the course of performing business related functions.

3.32 Amber Harris also arranged for the code to be changed during her absence. This also was done with her branch manager's permission.

3.33 At larger bank offices than Newport, dual control meant that no employee ever had both halves of the vault combination.

3.34 At the Newport branch, only two employees frequently opened the branch.

3.35 On September 2, 2014, Amber Harris and another employee scheduled to work both knew the same "one-half" of the combination. This left these employees

1 unable to open the vault from a three-day weekend so as to allow the bank to open
2 on time.

3 3.36 Amber Harris contacted her supervisor, Roxanne, so as to get the other half
4 of the combination to allow for the opening of the bank and the processing of the
5 more numerous than normal “night drop” from the three-day weekend.
6

7 3.37 Amber Harris accessed the vault on September 2, 2014, in the presence of
8 other bank employees at the instruction of her manager so as to allow the bank to
9 open on time.
10

11 3.38 After September 2, 2014, but prior to going on leave, Amber Harris
12 contacted the bank’s security officer Renee and discussed the need to change the
13 bank vault’s combination while she was out on medical leave.
14

15 3.39 The vault combination was changed while she was out on medical leave, on
16 Amber Harris’ instructions.

17 3.40 Amber Harris had cooperated with other employees to get the combination
18 to allow the bank to function many times before and was never terminated for this
19 behavior prior to her September 2014 medical leave.
20

21 3.41 Other employees of Mountain West Bank in Newport also had to access
22 both halves of the combination to allow the bank to function. These other
23 employees were not fired for acting in this manner.
24

1 3.42 Amber Harris has suffered lost wages, attorney fees, costs, and seeks
2 punitive damages to the maximum amount allowed by and under the laws of the
3 United States and Washington state.
4

5 **IV. CAUSES OF ACTION**

6 **A. First Claim for Relief Violations of ADA and WLAD.**

7
8 4.1 Plaintiff incorporates paragraphs 1 through 3.42 as if pled verbatim herein.

9 4.2 In order to prevail on an ADA or WLAD failure to accommodate claim the
10 Plaintiff must establish: (1) that she was disabled as defined as by the ADA or
11 WLAD; (2) that she was qualified to perform essential functions of her job, with or
12 without reasonable accommodation; and (3) that because of such a disability the
13 employer failed to make reasonable accommodations for an employee's disability
14 that the employer had knowledge of either actual or constructive.
15

16 4.3 Defendant, by and through the acts and omissions of its agents violated the
17 ADA and WLAD by (a) firing Amber Harris while on approved medical leave; (b)
18 reducing Amber Harris' pay and marking her down on her review based upon her
19 disability or perception of disability; (c) Defendants purposely violated Amber
20 Harris' right to be free from disability discrimination under 42 U.S.C. §12101 et
21 seq. and RCW 49.60 et seq.
22
23
24

1 4.4 In order to establish a prima facie case for discrimination under the ADA
2 and WLAD the plaintiff must show (1) she was a disabled person within the
3 meaning of the Act; (2) she was qualified to perform the essential functions of the
4 job with reasonable accommodation or was otherwise performing the job
5 satisfactorily; and (3) she suffered an adverse employment action because of the
6 disability.
7

8 4.5 Defendant failed to accommodate and discriminated against Amber Harris
9 by (a) firing Amber during an approved medical leave under the false pretext of a
10 security violation; (b) by granting medical leave then negatively assessing Amber
11 Harris based on her disability; and (c) denying Amber Harris promotions based on
12 her medical leave and condition.
13

14 **B. Second Claim for Relief-Retaliation**
15

16 4.6 Amber Harris incorporates paragraphs 1 through 4.5 as if pled verbatim
17 herein.

18 4.7 The WLAD, ADA and FMLA make it unlawful to retaliate against an
19 employee for opposing unlawful practices, exercising her legal right to be free of
20 discrimination, and for utilizing medical leave.
21

22 4.8 Mountain West Bank unlawfully retaliated against Amber Harris for (1)
23 suffering from a disability; and (2) for requesting and utilizing medical leave for a
24

1 surgery to correct her medical condition in close proximity to the time of the
2 adverse action making the protected activity and adverse action causally related.

3 4.9 The termination occurring during the medical leave is prima facie evidence
4 of unlawful retaliation.
5

6 **C. Third Claim for Relief Violations of the state and federal FMLA**

7 4.10 Amber Harris incorporates paragraphs 1 through 4.9 as if pled verbatim
8 herein.
9

10 4.11 Amber Harris requested medical leave in 2014 to accommodate medical
11 visits for her disability.

12 4.12 Amber Harris was criticized in her review for attending medical visits.

13 4.13 Pursuant to 29 U.S.C. §2615, it is unlawful for any employer to interfere
14 with, restrain, or deny the exercise of or the attempt to exercise an employee's
15 right to FMLA. Washington's comparable state FMLA wholly adopts the federal
16 interpretation of the federal Act for purposes of interpreting state law.
17

18 4.14 Mountain West Bank by terminating Amber Harris two days before the end
19 of her medical leave amounts to a violation of the FMLA and gives rise to claims
20 for interference, discrimination and retaliation.
21

22 **V. DEMAND FOR RELIEF**

23 Plaintiff, Amber Harris, hereby demands:
24

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1 A. Award Plaintiff lost back pay, lost wage damages under the ADA and
2 WLAD, punitive damages under the ADA, liquidated damages under the
3 FMLA, and all other damages allowed in law or in equity, including but not
4 limited to back pay, front pay, pre and post judgment interest, adverse tax
5 consequences, but Plaintiff does not seek emotional distress damages or
6 general damages;
7

8 B. Award Plaintiff costs, attorney fees, and other reasonable expenses as
9 allowed by statute under the federal and state law claims cited above and
10 under the *private attorney general* theory of recovery for attorney fees and
11 costs in employment related cases;
12

13 C. Allow Plaintiff's claims to be tried to a jury;

14 D. Award Plaintiff relief as the Court deems equitable.
15

16 Dated this 23rd day of August, 2016.

17
18 BEST LAW, PLLC

19
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25 AMENDED COMPLAINT FOR
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